IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI

THE ACTING CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No. 13871 of 2005

Between:

Mrs.Mirza Aamena Begum, w/o Mirza Nisar Ahmed Baig Nizami,
r/o H.No.1-2-54/7, Street No.6, Himayathnagar, Hyderabad.

..... PETITIONER

AND

1. The Union of India rep., by its Secretary, Ministry of Law, Justice & Company Affairs, Sansad Bhavan, New Delhi.
2. The State of AP rep., by its Principal Secretary, Minority Welfare (Wakf) Department,
Secretariat Building, Hyderabad.
3. The Secretary, Bar Council of A.P., High Court Campus, Hyderabad.
4. The Election Officer, Estate officer, G.A. (Accomodation) Department, Near Meera Talkies, Khairatabad,Hyderabad.
5. A.P.State Wakf Board, rep., by its Chief Executive Officer, Haj House Complex, Opp:Public Gardens,
Nampally, Hyderabad.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ more particularly one in the nature of Mandamus declaring the letters dt.09-06-2005 and 16-06-2005 of the 3rd respondent viz., Secretary Bar Council of A.P., as being illegal contrary to Sections 3,5,6,8 and 17 of the Advocates Act of 1961, Section 14(1)(b)(iii) of the Wakf Act of 1995, b) To call for the entire records

from the respondents herein for better adjudication of the matter, and, c) To grant such other and further relief as are just and necessary in the circumstances of the case, otherwise the entire Muslim Advocates community will suffer irretrievable loss and hardship and pass such other order or orders as this Hon'ble Court deems fit.

Counsel for the Petitioner: Mr. Mirza Nisar Ahmed Baig

Counsel for the Respondent No.1: Mr.A.Rajasekhar Reddy

(Asst. Solicitor-General).

Counsel for Respondent No.3: -----

Counsel for Respondents 2 &4: G.P. for G.A.D.

Counsel for Respondent No.5: Mr.A.M.Qureshi

The Court at the stage of admission made the following :

ORAL ORDER:

(per Honourable Sri Bilal Nazki, the Acting Chief Justice)

Heard learned counsel for the petitioner. In this writ petition, Mandamus is sought declaring the letters dated: 9.6.2005 and 10.6.2005 issued by 3rd respondent as illegal and contrary to Sections 3,5, 6,8 and 17 of the Advocates Act, 1961 and Section 14 of the Wakf Act. Both these letters show that Mr.Noushad Ali is elected member of the Bar Council of Andhra Pradesh. These letters were written to the Election Officer and Estate Officer of the Wakf Board. These letters are written in the context of Section 14 of the Wakf Act, 1995. Section 14 lays down the procedure for composition of the Wakf Board under the Act and Section 14(iii) lays down that Muslim members of the Bar Council of the State would be members of the Wakf Board. In this context, a letter appears to have been written by the Election Officer of Wakf Board to the Bar Council and the Bar Council informed that one Advocate by name Mr.Noushad Ali was the only elected member of the Bar Council. Though the petitioner seeks quashing of these letters, yet, he has not thought it proper to make Mr.Noushad Ali a respondent in this writ petition. We could have dismissed this writ petition on this ground alone, but, since the counsel has also argued that the letters

are in contradiction to Sections, 3,5,6, 8 and 17 of the Advocates Act and Section 14 of the Wakf Act, therefore, a brief discussion would be necessary.

Bar Council of the State is constituted under Section 3 of the Advocates Act and it comprised of various members. Some members are elected by the Advocates enrolled by the Bar Council. The requirement of Wakf Board under Section 14 of the Wakfs Act is that a member should be a member of the Bar Council. The learned counsel wants to argue that every member of the Bar Council or every Advocate registered with the Bar Council would be entitled to be a member of the Wakf Board in terms of Section 14. There is no basis for such an argument being advanced because all Advocates registered with a particular Bar Council are merely the voters of Bar Council who elect the members who are known as members of the Bar Council. What is required under Section 14 of the Wakf Act for an advocate to be member of Wakf Board is that such an advocate should be member of Bar Council. The learned counsel has placed reliance on the judgment of the Madhya Pradesh High Court in **Radhelal Gupta v. State Bar Council of M.P..** The question that was considered by the Madhya Pradesh High Court in that writ petition is in the first paragraph of the judgment and we are reproducing the same:

> " The pivotal issue that arises for consideration in this writ petition preferred by a learned member of the Bar whether the members of the State Bar Council of Madhya Pradesh are entitled to continue even after expiry of their term, as envisaged under the Advocates Act, 1961."

The judgment nowhere in no way lays down any law, which could be of any help to decide the present controversy.

For these reasons, we do not find any merit in this writ petition, which is accordingly dismissed.

BILAL NAZKI, ACJ.

29.6.2005.

_____

G.CHANDRAIAH, J.

VR.

To

1. The Secretary to Government of India, Ministry of Law, Justice & Company Affairs, Sansad Bhavan, New Delhi.
2. The Principal Secretary to Government of AP, Minority Welfare (Wakf) Department, Secretariat Building, Hyderabad.
3. The Secretary, Bar Council of A.P., High Court Campus, Hyderabad.
4. The Election Officer/ Estate officer, G.A. (Accomodation) Department, Near Meera Talkies, Khairatabad,Hyderabad.
5. A.P.State Wakf Board, rep., by its Chief Executive Officer, Haj House Complex, Opp:Public Gardens,
Nampally, Hyderabad.

6) Two CCs to Government Pleader for GAD, High Court Buildings, Hyderabad (OUT).

7) 2 CD copies

8) 1 CC to Mr.QURESHI

9) 1 CC to Mr.SUBHAN

10) 1 CC to Mr. NIRANJAN REDDY

*Form-NIC-OGS/WP{**RS**}*